

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SOLON PHILLIPS,

*

Plaintiff,

*

v.

Civil Action No. GLR-20-583

MARYLAND BOARD OF LAW
EXAMINERS, et al.,

*

*

Defendants.

MEMORANDUM OPINION

On March 3, 2020, Plaintiff Solon Phillips, a self-represented litigant, filed a Complaint and a Motion to Proceed in Forma Pauperis in this matter. (ECF Nos. 1, 2). Phillips has also filed an Amended Complaint. (ECF No. 4). Phillips alleges that Defendants, the Maryland Board of Law Examiners and individual members of the Board, have violated his rights under state and federal law by denying his admission to the State Bar of Maryland.

Phillips has another case pending before this Court alleging essentially the same facts against the same individuals as in the instant action. See Amended Complaint, Phillips v. State Bd. of Law Exam'rs, No. 19-cv-2427-ADC (D.Md. Sept. 13, 2019) ("Phillips I"). There, the Court granted Defendants' Motion to Dismiss Phillips's Amended Complaint on December 19, 2019. (Phillips I, ECF No. 22–23). Phillips thereafter filed a Motion for Leave to File a Second Amended Complaint, which was denied on January 3, 2020. (Phillips I, ECF Nos. 25, 27). Phillips filed a Notice of Appeal with the United States Court of Appeals for the Fourth Circuit on January 13, 2020. (Phillips I, ECF No. 28).

Phillips filed the instant case on March 3, 2020 and filed an Amended Complaint on June 23, 2020, (ECF Nos. 1, 4), with Phillips I pending on appeal. On July 17, 2020, the Fourth Circuit reversed Phillips I in part and remanded the case for further proceedings. (Phillips I, ECF No. 31).

Phillips's Amended Complaint contains six claims that are identical to those asserted in Phillips I, plus two additional grounds for relief under state law. The facts as presented almost entirely track the allegations in Phillips I.

The Court has the power to dismiss a suit that is duplicative of another federal suit. See Sensormatic Sec. Corp. v. Sensormatic Elecs. Corp., 329 F.Supp.2d 574, 579 (D.Md. 2004) (“Thus, when a suit is pending in federal court, a plaintiff has no right to assert another action ‘on the same subject in the same court, against the same defendant at the same time.’” (quoting Curtis v. Citibank, N.A., 226 F.3d 133, 138–39 (2d Cir. 2000))). This Court further explored this issue in a more recent decision:

Essentially, a court must determine “whether the second suit raises issues that should have been brought in the first.” Curtis, 226 F.3d at 139. This assessment is composed of two factors. See Jenkins v. Gaylord Entertainment Co., 840 F.Supp.2d 873, 883 (D.Md. 2012); see also Smith v. Commc’ns Works of America (CWA)—District 2, No. 8:12-cv-00027-AW, 2012 WL 6021506, at *6 (D.Md. Dec. 3, 2012). First, the second suit “Duplicates the first where it . . . arises out of the same operative facts.” Jenkins, 840 F.Supp. at 883. Second, a court must consider whether the “interests of judicial economy and avoiding vexatious litigation outweigh the plaintiff’s interest in bringing the second suit.” Id.

Lacy v. Nat’l R.R. Passenger Corp., No. RDB-14-179, 2014 WL 6967957, at *6 (D.Md. Dec. 8, 2014), aff’d, 600 F. App’x 127 (4th Cir. 2015).

Any claims Phillips is asserting in this action should have been brought in Phillips I, a matter which is currently pending before this Court. The claims are based on the same facts and events and are against the same Defendants. In the interest of judicial economy and to avoid burdening the same Defendants with a duplicative lawsuit, this Complaint shall be dismissed.

Additionally, upon review of the Motion to Proceed in Forma Pauperis, it does not appear that Phillips is indigent and unable to pay the civil filing fee. As set forth in the Motion, he has considerable income and assets. (ECF No. 2). Insofar as this action is dismissed as duplicative, however, the Motion is denied as moot.

For the foregoing reasons, Phillips's Motion to Proceed in Forma Pauperis is denied as moot. Phillips's Amended Complaint is dismissed without prejudice. A separate Order follows.

Dated this 27th day of August, 2020.

/s/
George L. Russell, III
United States District Judge